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Message Text

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ORIGIN L-03

INFO OCT-01 IO-14 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10

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E.O. 11652: GDS
TAGS: UN, PFOR
SUBJ: DEFINITION OF AGGRESSION
REFS: (A) USUN 1025 (B) USUN 1066 (C) STATE 61897

1. DESPITE USEFULNESS OF PROVISIONS ON "FORCIBLY DEPRIVED" AND "BY ALL LEGITIMATE MEANS", WE REMAIN DISCONTENT WITH PROPOSED ARTICLE 5 FOR MULTIPLE REASONS, INCLUDING: (A) ITS INCLUSION IN A DEFINITION OF AGGRESSION CLEARLY IMPORTS THAT "WARS OF LIBERATION" ARE AN EXCEPTION FROM PROSCRIPTIONS AGAINST AGGRESSION; (B) THE PROPOSED DRAFT CUTS BACK ON LIKE PROVISIONS OF THE FRIENDLY RELATIONS DEFINITION (WHICH OF THEMSELVES ARE THE MOST OBJECTION-ABLE ELEMENTS OF THAT RES.), ESPECIALLY BY THE DRAFT'S SPECIFICATION OF "ALIEN" DOMINATION; (C) ACCEPTANCE OF PROPOSED TEXT MAY PLACE INCREASED BURDEN UPON USG EFFORTS TO EXCLUDE A LIKE ESCAPE CLAUSE FROM REVISED CONVENTIONS ON LAW OF WAR.

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2. CRITICAL POINT IS THAT, IF WE AGREE THAT REVOLUTIONARY

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FORCES MAY RECEIVE SUPPORT, WE ARE SAYING IN EFFECT THAT WHAT WOULD BE AN AGGRESSIVE ACT -- LENDING SUCH ARMED SUPPORT -- IS NOT AGGRESSION BECAUSE, IN SUBJECTIVE JUDGMENT OF SOME, SUPPORT IS BEING LENT TO A STRUGGLE IN PURSUIT OF SELF-DETERMINATION. WE ARE NOT PREPARED TO AGREE TO THIS.

3. ACCORDINGLY, REQUEST YOU ADVANCE FOLLOWING AS TEXT ON WHICH WE ARE PREPARED TO AGREE. IT GOES AS FAR AS WE CAN BY TAKING MOST OF THE TEXT AS IT HAS BEEN PROPOSED IN CONTACT GROUP, BUT ESSENTIALLY DELETES FINAL PHRASE IN ACCORDANCE WITH ABOVE SO AS TO LIMIT THE ARTICLE TO REVOLUTIONARY ACTION AND NOT REFER TO INVOLVEMENT OF THIRD STATES: "NONE OF THE PRECEDING PARAGRAPHS MAY BE INTERPRETED AS LIMITING THE SCOPE OF THE CHARTER'S PROVISIONS CONCERNING THE RIGHT OF PEOPLES FORCIBLY DEPRIVED OF THEIR INHERENT RIGHTS AND REFERRED TO IN THE DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS, PARTICULARLY THOSE UNDER COLONIAL OR RACIST REGIMES OR OTHER FORMS OF ALIEN DOMINATION, TO STRUGGLE BY ALL LEGITIMATE MEANS AT THEIR DISPOSAL FOR SELF-DETERMINATION, FREEDOM AND INDEPENDENCE."

4. WE RECOGNIZE THAT THIS STAND AT THIS JUNCTURE WILL PLACE USDEL IN DIFFICULT POSITION. HOWEVER, IT BOTH COMPORTS WITH APPROACH ON THIS ISSUE WHICH USG HAS MAINTAINED AT EARLIER SESSIONS AND PRESERVES OUR POSITION ON ISSUE OF PARAMOUNT IMPORTANCE. IN OUR JUDGMENT, THERE IS NOT ENOUGH IN A DEFINITION OF AGGRESSION FOR US TO JUSTIFY OUR ACCEPTING ONE WHICH WOULD ENTITLE A STATE TO ASSIST REBELS IN ANOTHER BECAUSE IT ADJUDGES THE REBELLION TO BE ANTI-COLONIAL OR ANTI-RACIAL. WE RECOGNIZE THAT FRIENDLY RELATIONS DRAFT GOES SOME WAY TOWARDS DOING SO, THOUGH IT QUALIFIES THAT STEP BY REFERENCE TO CHARTER PRINCIPLES. WE DO NOT FIND SUCH A QUALIFICATION ENOUGH IN CONTEXT OF A DEFINITION OF AGGRESSION, WHERE CLEARLY THE ESSENCE OF WHAT PROPONENTS OF OBJECTIONABLE LANGUAGE
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SEEK IS INDICATION THAT ACTS WHICH OTHERWISE WOULD BE AGGRESSIVE ARE NOT WHEN IN SUPPORT OF "WAR OF LIBERATION".

5. WE HOPE THAT OUR MAINTENANCE OF FOREGOING POSITION WILL NOT PROVE INSUPERABLE BARRIER TO AGREEMENT. IF, CONTRARY TO OUR HOPE OF GETTING RID OF THIS EXERCISE, AGREEMENT PROVES IMPOSSIBLE TO REACH THIS SESSION, WE WOULD PREFER GROUNDS OF AGREEMENT NOT TO BE LIMITED TO

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ARTICLE 5, BUT INCLUDE OTHER CONSEQUENTIAL ISSUES, SUCH
AS THOSE OF ARTICLES 2 AND 3. RUSH

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